IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 22ND FEBRUARY 2007 / 3RD PHALGUNA 1928

WP(C).No. 6032 of 2007(R)

PETITIONER:

E.J.JOY ALIAS GEORGE JOSEPH,
ELAVUNKAL HOUSE, ELAMAKKARA.

BY ADV. SMT.S.K.DEVI
SRI.M.RAJ MOHAN
SRI.K.P.PRADEEP (PAYYANNUR)

RESPONDENTS:

1. **THE ASST. COMMISSIONER (WORKS CONTRACT),**
O/O. THE DEPUTY COMMISSIONER, COMMERCIAL TAXES,
ERNAKULAM.

2. **DEPUTY COMMISSIONER (APPEALS),**
DEPARTMENT OF COMMERCIAL TAXES, ERNAKULAM.

3. **THE INTELLIGENCE OFFICER (IB),**
DEPARTMENT OF COMMERCIAL TAXES, MATTANCHERRY.

4. **INSPECTING ASSISTANT COMMISSIONER,**
DEPARTMENT OF COMMERCIAL TAXES, KOCHI, ERNAKULAM.

BY GOVERNMENT PLEADER SRI. MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22/02/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 6032 OF 2007-R

JUDGMENT

The petitioner challenges Ext.P11 order. It is an interim order passed in the interlocutory applications filed along with Exts.P9 and P10 appeals filed by him, challenging Exts.P3 and P4 assessment orders of KGST for the years 2001-02 and 2002-03. As per the said order, the petitioner has been directed to pay only 25% of the balance tax due, as a condition for stay. According to the petitioner, if various relevant factors urged by him in the appeal, like the effect of Ext.P2, prepared by the Intelligence Wing of the Sales Tax Department and also the failure to give credit for 30% of the labour charges were considered by the appellate authority, the liability would have been considerably reduced. So, the interim order should have been granted on more liberal terms, even if no absolute stay could be granted, it is submitted.

2. Ext.P11 is only an interim order. I feel that the contentions raised by the petitioner are matters which the appellate authority should consider at the time of final disposal of the appeals. Since the petitioner has been called upon to pay only 25% of the balance tax due, as a condition for stay, I feel it

is a very reasonable order. Further, this Court can interfere with an interim order only on limited grounds. I find that no ground has been made out warranting interference with the same. Accordingly, the challenge against Ext.P11 is repelled. But, it is made without prejudice to the contentions of the petitioner, which he may urge at the time of final disposal of the appeals. If the petitioner moves the appellate authority for calling for his books of accounts, which are stated to be with the Intelligence Wing, the said authority shall pass appropriate orders on such motion.

The Writ Petition is disposed of as above.

22nd February, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/